

REMARKS

Entry of this Amendment and reconsideration are respectfully requested in view of the amendments to the claims and for the remarks made herein.

Claims 1-3 are pending and stand rejected. Claims 1 and 3 have been amended.

Claims 1-3 stand rejected under 35 USC 103(a) as being unpatentable over Moers (USP no. 6957053) in view of Tanaka (USP no. 5870666).

Applicant respectfully disagrees with and explicitly traverses the rejection of the claims. However, in the interest of advancing the prosecution of this matter, independent claims 1 and 3 have been amended to recite the invention claimed in better form. More specifically, the claims have been amended to recite that the additional testing of the received frequency is performed immediately after receiving the frequency. No new matter has been added.

Support for the amendment may be found at least in Figure 2, which illustrates an inner loop of iterations of comparing the received signal to the criteria and incrementing the counter when the criteria are satisfied up to 10 iterations.

Moers discloses a method for tuning the reception of radio broadcast signals to an FM RDS transmitter using program related data and transmitter related data wherein an FM spectrum is scanned (a3) and when a signal is detected a check is made whether the signal exceeds a threshold (a4). A count of the number of detections is made (steps a9, a10 and a11). The scan is then resumed (a8). Moers further discloses that the whole FM band is scanned before a next scan of the received signal is made. (see, col. 6, lines 60-63, which state "a8: Resume the scanning operation. If the end of the F band (108, 0MHz) is reached, go to a3 to start a subsequent scan cycle.").

Moers fails to disclose that the received signal is immediately tested after reception of the signal as is recited in the claims.

Tanaka discloses a radio channel estimation method that includes a combination of bit error rate estimation and received signal strength indicator. Tanaka discloses independent testing of the BER and the RSSI for N and M times respectively. For example, with regard to the BER, Tanaka discloses that the each time the BER is greater

than a max value, a counter is incremented. Otherwise, the counter is decremented. After N times of the execution of the BER test, the counter is tested to be below zero. If the BER test results in a count less than zero (i.e., a majority of decrements), then the RSSI is not tested at all.

However, Tanaka does not disclose that the counter is incremented when the combination of quality and frequency meet specified criteria.

In order to establish a *prima facie* case of obviousness, three basic criteria must be met, 1. there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine the reference teachings, 2. there must be a reasonable expectation of success; and 3. the prior art reference must teach or suggest all the claim limitations.

In this case, a *prima facie* case of obviousness has not been made as each of the elements recited in the claims is not disclosed by the combination of Moers and Tanaka.

For the amendments made to the independent claims 1 and 3 and for the remarks made herein, applicant submits that the combination of Moers and Tanaka fails to include all the elements recited in the claims. Accordingly, the subject matter recited in the independent claims is not rendered obvious as the reason for the rejection of the independent claims 1 and 3 has been overcome. Applicant respectfully requests that the rejection be withdrawn and the independent claims allowed.

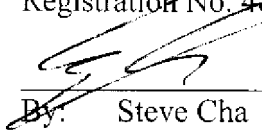
With regard to the rejection of claim 2, this claim depends from the independent claim 1 and, hence, is not rendered obvious by the combination of the combination of Moers and Tanaka for at least its dependency upon allowable base claim 1.

For the remarks made herein, applicant submits that the rejection of all the claims has been overcome and respectfully request the rejections be withdrawn. The issuance of a Notice of Allowance is respectfully requested.

Should the Examiner deem that there are any issues which may be best resolved by telephone, please contact Applicant's undersigned representative at the number listed below.

Respectfully submitted,

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